

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-32541 - APPLICANT/OWNER: MARQUIS NAVE

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-32543) and Site Development Plan Review (SDR-32540) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a five-foot side yard setback where 10 feet is required, to allow an 11-foot corner side yard setback where 15 feet is required and to allow a 10-foot rear yard setback where 20 feet is required. The subject Variance represents a deviation of 27, 50 and 50 percent respectively. A reduction in the ground floor square footage would eliminate the need for the subject Variance. The applicant has created a self-imposed hardship by overbuilding the subject site. Therefore, staff is recommending denial of the subject application.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/14/04	A Citation (#12814) was issued by Code Enforcement for trash, debris, high weeds, outside storage, and inoperable vehicles. The issue was resolved on 08/05/04.
11/18/05	A Citation (#36424) was issued by Code Enforcement for raw sewage located in the side yard. The issue was resolved on 12/02/05.
06/25/07	A Citation (#54694) was issued by Code Enforcement for raw sewage located in the side yard. The issue was resolved on 06/28/07.
08/14/07	A Citation (#56714) was issued by Code Enforcement for fire damage. The issue was resolved on 10/12/07.
09/25/08	A Citation (#70076) was issued by Code Enforcement for rubble and concrete on a vacant lot. The issue was resolved on 10/20/08.
01/22/09	The Planning Commission will hear a related Site Development Plan Review (SDR-32540) for a proposed 2,212 square-foot Mixed-Use development with Waivers to allow a Residential Adjacency setback of five feet where 81 feet is required, to allow a Waiver of Building Placement and Orientation Standards and Waivers of the Perimeter Landscape Buffer Requirements to allow a portion of the north and west property buffer to be zero feet where 15 feet is required, to allow a portion of the east property buffer to be three feet where 15 feet is required and to allow a portion of the south perimeter to be 10 feet where 15 feet is required; and a Special Use Permit (SUP-32543) a Waiver to allow no architectural differentiation of uses at the southeast corner of "C" Street and Jackson Avenue.
<i>Related Building Permits/Business Licenses</i>	
12/24/07	A Building Permit (#104678) was issued for a demolition permit for an existing residence. The building was demolished, but never received a final inspection. The building permits indicate that the house burned to the ground on 08/04/07.

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<i>Pre-Application Meeting</i>	
11/25/08	A meeting was held to discuss the requirements of the subject Site Development Plan Review and the related Special Use Permit and Variance applications.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

<i>Field Check</i>	
12/22/08	A field check was completed on the indicated date. The site is currently vacant. A single-family dwelling was once on the subject site, but has since been demolished.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.08

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Vacant	MXU (Mixed Use)	C-2 (General Commercial)
North	Single-Family Dwelling	MXU (Mixed Use)	R-3 (Medium Density Residential)
South	Duplex	MXU (Mixed Use)	C-2 (General Commercial)
East	Single-Family Dwelling	MXU (Mixed Use)	C-2 (General Commercial)
West	Multi-Family Residential	MXU (Mixed Use)	C-2 (General Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District – 175 feet	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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Redevelopment Plan Area – The subject site is located within the boundaries of the Las Vegas Redevelopment Plan Area. The proposed uses are in conformance with Redevelopment Plan goals and policies that encourage innovative, mixed use projects in this area of the City.

Airport Overlay District – The site is within the 175-foot height limitation contour of the North Las Vegas Airport Overlay Map portion of the A-O (Airport Overlay) District. The proposed building is indicated at a height of 27 feet. The proposed building will not impact the 175-foot Airport Overlay height restriction.

West Las Vegas Neighborhood Plan – The subject site is within the West Las Vegas Neighborhood Plan. The proposed development fails to further the goals and policies of the West Las Vegas Neighborhood Plan. Specifically, the proposed development fails to comply with Policy 2.2.1, which states: “that any higher density or mixed-use redevelopment, which is adjacent to lower density residential development incorporate appropriate visual design.” The applicant has clearly failed to comply with this requirement, which is evidenced by the overall building design and the need for the associated Waiver, which is a part of Special Use Permit (SUP-32543). The Waiver request is to allow no architectural differentiation of uses.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards are proposed:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Width	100 feet	50 feet	Y*
Min. Setbacks			
• Front (north property line)	20 feet	22 feet	Y
• Side (east property line)	10 feet	5 feet	N*
• Corner (west property line)	15 feet	11 feet	N*
• Rear (south property line)	20 feet	10 feet	N*
Max. Lot Coverage	50%	35%	Y
Max. Building Height	N/A	27 feet	N*
Trash Enclosure	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y
<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>% of Deviation</i>
Percent Deviation			
• Side (east property line)	10 feet	5 feet	50%
• Corner (west property line)	15 feet	11 feet	27%
• Rear (south property line)	20 feet	10 feet	50%

* First, the applicant has failed to meet the minimum development standards for side, corner side and rear yard setbacks. An associated Variance (VAR-32541) has been submitted, which addresses these deviations from Title 19.08 requirements. Second, the proposed building height is allowed within the subject C-2 (General Commercial) zoning designation, but is not compatible with the 3:1 Residential Adjacency Requirement. A Waiver of this requirement has been requested by the applicant. Finally, the minimum lot width in a C-2 (General Commercial) zoning designation is 100 feet. The existing lot width is 50 feet thereby making the lot legal non-conforming.

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ANALYSIS

The applicant is requesting a Variance to allow a five-foot side yard setback where 10 feet is required, to allow an 11-foot corner side yard setback where 15 feet is required and to allow a 10-foot rear yard setback where 20 feet is required. The applicant has overbuilt the site resulting in deviations of 27, 50 and 50 percent respectively. The subject Variance has demonstrated that the applicant has created a self-imposed hardship; therefore, staff is recommending denial of the subject application.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by overbuilding the subject site. Alternative site design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 158

APPROVALS 0

PROTESTS 0